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A limited liability partnership formed in the State of Delaware

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TYLER TECHNOLOGIES, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARIANNE KOHLMANN,

Plaintiff,

vs.

TYLER TECHNOLOGIES, INC., an entity; and  
DOES 1 through 25, inclusive,

Defendants.

Case No. \_\_\_\_\_

**DEFENDANT TYLER TECHNOLOGIES,  
INC.'S NOTICE OF REMOVAL OF CIVIL  
ACTION TO THE UNITED STATES  
DISTRICT COURT**

Contra Costa County Superior Court  
Case No.: C20-00008  
State Action Filed: January 6, 2020

**TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF CALIFORNIA, THE CLERK OF COURT, AND PLAINTIFF AND HER  
ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that Defendant Tyler Technologies, Inc. ("Defendant"), hereby  
removes the above-captioned action from the Superior Court of the State of California for the

County of Contra Costa to the United States District Court for the Northern District of California pursuant to 28 U.S.C. §§ 1441 and 1446, asserting original federal jurisdiction on the basis of diversity under 28 U.S.C. § 1332(a)(1). Pursuant to 28 U.S.C. § 1446(d), copies of this Notice of Removal are being served upon counsel for Plaintiff Marianne Kohlmann (“Plaintiff”) and filed with the Clerk of the California Superior Court for the County of Contra Costa, as an exhibit to a Notice to State Court of Removal to Federal Court.

### **PROCEDURAL HISTORY AND TIMELINESS OF REMOVAL**

1. Plaintiff filed this action against Defendant on January 6, 2020, in the Superior Court for the County of Contra Costa, in a case entitled, *Kohlmann v. Tyler Technologies, Inc., et al.*, Case No. C20-00008 (the “State Court Action”).

2. On January 7, 2020, the State Court Action was served on Defendant. *See* Declaration of Garrett C. Parks (“Parks Declaration”) at ¶ 2. On February 5, 2020, Defendant filed an Answer to Plaintiff’s Complaint and simultaneously removed the State Court Action to this Court. *Id.* at ¶ 3. Copies of the Complaint, Answer, Summons and ADR Package in the State Court Action are attached to the Parks Declaration as **Exhibit A**, and constitute all process, pleadings, and orders purported to be served in this action. *Id.* at ¶ 4.

3. In the State Court Action, Plaintiff alleges state law claims against Defendant for discrimination, harassment, failure to engage in the interactive process, failure to accommodate, retaliation, failure to prevent discrimination/harassment/retaliation, and wrongful termination (the “Complaint”). *See generally* Complaint.

4. A copy of the Notice to State Court of Removal to Federal Court is attached (without exhibits) to the Parks Declaration at ¶ 5 and **Exhibit B**.

### **NO JOINDER NECESSARY**

5. Because there are no other ascertainable Defendants in this action, no consent to removal is necessary.

### **BASES FOR REMOVAL**

6. This Court has original jurisdiction under 28 U.S.C. § 1332 and Defendant may remove the State Court Action from state court to federal court pursuant to 28 U.S.C. § 1441 because it

1 involves a controversy that exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000),  
2 and is between citizens of different states.

### 3 DIVERSITY JURISDICTION

#### 4 Plaintiff's Citizenship

5 7. Plaintiff alleges she is a resident of California. *See* Complaint ("Compl.") ¶ 5. A natural  
6 person's citizenship is determined by his state of domicile. *Kantor v. Warner-Lambert Co.*, 265  
7 F.3d 853, 857 (9th Cir. 2001). Therefore, Plaintiff is domiciled in California.

#### 8 Defendant's Citizenship

9 8. Pursuant to 28 U.S.C. § 1332(c), "a corporation shall be deemed to be a citizen of any  
10 State by which it has been incorporated and of the State where it has its principal place of  
11 business." Defendant is now, and ever since this action commenced has been, incorporated under  
12 the laws of the State of Delaware, with its principal place of business in Plano, Texas under the  
13 "nerve center" test. Declaration of Kelley Scott ¶¶ 2-3; *Hertz Corp. v. Friend*, 130 S. Ct. 1181, 1192  
14 (2010).

#### 15 Amount in Controversy Exceeds \$75,000

16 9. The Complaint seeks compensatory damages, economic damages, punitive damages,  
17 interest on Plaintiff's alleged damages, and costs and attorneys' fees. *See* Compl. at Prayer.

18 10. On or around June 4, 2018, Tyler hired Plaintiff at an annual salary of \$70,000. *See*  
19 Scott Declaration ¶¶ 4-5. Plaintiff's employment with Defendant ended around September 25,  
20 2018, at which point she had earned approximately \$22,076.94. *Id.* If Plaintiff were to prevail at  
21 trial and was awarded front pay, that amount, added to any back pay award, would exceed the  
22 \$75,000 jurisdictional requirement.

23 11. The Court may consider Defendant's calculations in determining whether the amount in  
24 controversy requirement is met. *See Simmons v. PCR Technology*, 209 F. Supp. 2d 1029, 1031-32  
25 (N.D. Cal. 2002) (while declining to project future wage loss until an estimated trial date, the Court  
26 agreed, based on defendant's calculations, that expected damages exceeded the amount claimed by  
27 plaintiff in the complaint). While Defendant denies Plaintiff is entitled to compensatory damages,  
28

1 for purposes of the amount in controversy requirement, Defendant's projections of Plaintiff's  
2 alleged compensatory damages should be considered.

3 12. The Complaint seeks punitive damages. *See* Compl. at Prayer. Punitive damages are  
4 considered part of the amount in controversy. *See Simmons*, 209 F. Supp. 2d at 1033 ("[t]he amount  
5 in controversy may include punitive damages when they are recoverable as a matter of law").  
6 "Punitive damages are available under FEHA." *Id.* Defendant denies that punitive damages should  
7 be awarded here; however, for purposes of the amount in controversy requirement, claimed punitive  
8 damages should be considered.

9 13. The Complaint seeks an award of attorneys' fees. *See* Compl. at Prayer. "Attorneys' fees  
10 may be included in the amount in controversy if recoverable by statute or contract." *Simmons*, 209  
11 F. Supp. 2d at 1034. "Attorneys' fees are recoverable as a matter of right to the prevailing party  
12 under FEHA." *Id.* Defendant denies that any attorneys' fees should be awarded here; however, for  
13 purposes of the amount in controversy requirement, claimed attorneys' fees should be considered.

14 14. While Defendant denies any liability in connection with Plaintiff's claims, because  
15 diversity of citizenship exists and the amount in controversy exceeds \$75,000, this Court has  
16 original jurisdiction of the action pursuant to 28 U.S.C. §1332(a).

### 17 VENUE

18 15. The State Court Action is being removed from the Superior Court of the State of  
19 California, County of Contra Costa. *See generally* Compl. As such, venue lies in the Northern  
20 District of this Court pursuant to 28 U.S.C. §§1441 and 1446(a).

### 21 TIMELINESS OF REMOVAL

22 16. This Notice of Removal is timely because Defendant has removed within 30 days of  
23 service. 28 U.S.C. § 1446(b).

### 24 CONCLUSION

25 17. For the reasons stated above, this action is within the original jurisdiction of this Court  
26 pursuant to 28 U.S.C. §§ 1331 and 1332(a)(1). Accordingly, this action is removable pursuant to 28  
27 U.S.C. § 1441.  
28

1 WHEREFORE, Defendant gives notice that the State Court Action pending against it in the  
2 Superior Court of the State of California for the County of Contra Costa is removed to this Court.

3  
4 DATED: February 5, 2020

5 REED SMITH LLP

6  
7 By: /s/ Garrett C. Parks  
8 Paulo B. McKeeby (*Pro Hac Vice*)  
9 Garrett C. Parks  
10 Attorneys for Defendant  
11 Tyler Technologies, Inc.  
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